IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 24TH NOVEMBER, 2006 /3RD AGRAHAYANA, 1928

WP(C).No. 24869 of 2006(I)

OPIDA.1016/2005 of ADDITIONAL SESSIONS COURT(ADHOC)III, KOLLAM
.....

PETITIONER:

V.J.JAMES, AGED 32 YEARS,
S/O.THOMAS JOSEPH, VAYALAMANNIL,
ANAKKULAM MURI, ALAYAMON VILLAGE,
PATHANAPURAM TALUK.

BY ADV. SRI.MOHAN JACOB GEORGE
SMT.P.V.PARVATHI
SMT.REENA THOMAS
SRI.AJESH. M.R.
SRI.TITUS THOMAS

RESPONDENT:

SMITHA THOMAS AGED 23 YEARS,
D/O.TOMY, PARAYIL VEEDU,
PARAMTHODU, VAZHOOR MURI, KOTTAYAM DISTRICT.

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SMT.KAVITHA GANGADHARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD

ON 24/11/2006, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING:

APPENDIX (WP(C) NO.24869 OF 2006)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the O.P.(IDA) No.1016/05 filed before the Family Court, Kottarakkara.

Ext.P2: Copy of the order dtd.20.7.2006.

Ext.P3: Copy of the review petition as I.A.No.1756/06 against Ext.P2 order.

-True Copy-

P.A.to Judge.

M. RAMACHANDRAN & A.K.BASHEER, JJ.

W.P.(C).NO.24869 OF 2006

Dated this the 24th day of November, 2006

J U D G M E N T

Basheer, J.

This writ petition filed under Articles 226 and 227 of the Constitution is at the instance of the husband in a proceeding pending before the Family Court, Kottarakkara.

2. Petitioner had initiated the above proceedings under Section 32 of the Indian Divorce Act for restitution of conjugal rights. Final orders have not been passed in the case, so far. The grievance of the petitioner is that the court below has passed Ext.P2 order directing him to pay interim maintenance to his wife at the rate of Rs.500/- per month with effect from July, 2006, even without affording him an opportunity to be heard. It is also pointed out by the learned counsel that the respondent/wife had not even moved an application for interim maintenance nor had she appeared for counselling, though directions were issued by the court below in this regard.

3. Having regard to the entire facts and circumstances of the case and having heard learned counsel for the petitioner, we are, prima facie, satisfied that Ext.P2 order is liable to be set aside. We do so. However, we make it clear that it will be open to the court below to pass appropriate orders if a motion in this regard is made by the respondent at a later stage. This shall be done only after affording sufficient opportunity to the parties to be heard.

The writ petition is disposed of as above.

M. Ramachandran, Judge

A.K.Basheer, Judge

Mbs/

M. RAMACHANDRAN &
A.K.BASHEER, JJ

W.P.(FC).NO. OF 200

J U D G M E N T

DATED: -11-2006